## **ESSB** 6665 - H AMD 1556

5

7

8

9

10 11

12

13

1415

16

1718

19

22

23

24

2526

29

By Representative Dickerson

## ADOPTED 03/12/2008

1 Strike everything after the enacting clause and insert the 2 following:

- 3 "Sec. 1. RCW 70.96A.800 and 2005 c 504 s 220 are each amended to 4 read as follows:
  - (1) <u>Subject to funds appropriated for this specific purpose</u>, the secretary shall select and contract with counties to provide intensive case management for chemically dependent persons with histories of high utilization of crisis services at two sites. In selecting the two sites, the secretary shall endeavor to site one in an urban county, and one in a rural county; and to site them in counties other than those selected pursuant to RCW 70.96B.020, to the extent necessary to facilitate evaluation of pilot project results. <u>Subject to funds appropriated for this specific purpose</u>, the secretary may contract with additional counties to provide intensive case management.
  - (2) The contracted sites shall implement the pilot programs by providing intensive case management to persons with a primary chemical dependency diagnosis or dual primary chemical dependency and mental health diagnoses, through the employment of chemical dependency case managers. The chemical dependency case managers shall:
- 20 (a) Be trained in and use the integrated, comprehensive screening 21 and assessment process adopted under RCW 70.96C.010;
  - (b) Reduce the use of crisis medical, chemical dependency and mental health services, including but not limited to, emergency room admissions, hospitalizations, detoxification programs, inpatient psychiatric admissions, involuntary treatment petitions, emergency medical services, and ambulance services;
- 27 (c) Reduce the use of emergency first responder services including police, fire, emergency medical, and ambulance services;
  - (d) Reduce the number of criminal justice interventions including

- arrests, violations of conditions of supervision, bookings, jail days, prison sanction day for violations, court appearances, and prosecutor and defense costs;
  - (e) Where appropriate and available, work with therapeutic courts including drug courts and mental health courts to maximize the outcomes for the individual and reduce the likelihood of reoffense;
  - (f) Coordinate with local offices of the economic services administration to assist the person in accessing and remaining enrolled in those programs to which the person may be entitled;
  - (g) Where appropriate and available, coordinate with primary care and other programs operated through the federal government including federally qualified health centers, Indian health programs, and veterans' health programs for which the person is eligible to reduce duplication of services and conflicts in case approach;
- (h) Where appropriate, advocate for the client's needs to assist the person in achieving and maintaining stability and progress toward recovery;
  - (i) Document the numbers of persons with co-occurring mental and substance abuse disorders and the point of determination of the co-occurring disorder by quadrant of intensity of need; and
  - (j) Where a program participant is under supervision by the department of corrections, collaborate with the department of corrections to maximize treatment outcomes and reduce the likelihood of reoffense.
- 25 (3) The pilot programs established by this section shall begin 26 providing services by March 1, 2006.
- (((4) This section expires June 30, 2008.))

4

5

6

7

8

10

11

12

13

14

18

19

20

2122

23

24

- 28 **Sec. 2.** RCW 70.96B.800 and 2005 c 504 s 217 are each amended to 29 read as follows:
- (1) The Washington state institute for public policy shall evaluate the pilot programs and make ((a)) preliminary reports to appropriate committees of the legislature by December 1, 2007, and June 30, 2008, and a final report by ((September 30, 2008)) June 30, 2010.
- 34 (2) The evaluation of the pilot programs shall include:
  - (a) Whether the designated crisis responder pilot program:
- (i) Has increased efficiency of evaluation and treatment of personsinvoluntarily detained for seventy-two hours;

1 (ii) Is cost-effective;

4

18

19

2021

22

2324

2526

27

28

- 2 (iii) Results in better outcomes for persons involuntarily
  3 detained;
  - (iv) Increased the effectiveness of the crisis response system in the pilot catchment areas;
- 6 (b) The effectiveness of providing a single chapter in the Revised
  7 Code of Washington to address initial detention of persons with mental
  8 disorders or chemical dependency, in crisis response situations and the
  9 likelihood of effectiveness of providing a single, comprehensive
  10 involuntary treatment act.
- 11 (3) The reports shall consider the impact of the pilot programs on 12 the existing mental health system and on the persons served by the 13 system.
- 14 **Sec. 3.** RCW 70.96B.010 and 2005 c 504 s 202 are each amended to read as follows:
- The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.
  - (1) "Admission" or "admit" means a decision by a physician that a person should be examined or treated as a patient in a hospital, an evaluation and treatment facility, or other inpatient facility, or a decision by a professional person in charge or his or her designee that a person should be detained as a patient for evaluation and treatment in a secure detoxification facility or other certified chemical dependency provider.
  - (2) "Antipsychotic medications" means that class of drugs primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes but is not limited to atypical antipsychotic medications.
- 29 (3) "Approved treatment program" means a discrete program of 30 chemical dependency treatment provided by a treatment program certified 31 by the department as meeting standards adopted under chapter 70.96A 32 RCW.
- 33 (4) "Attending staff" means any person on the staff of a public or 34 private agency having responsibility for the care and treatment of a 35 patient.
  - (5) "Chemical dependency" means:
- 37 (a) Alcoholism;

(b) Drug addiction; or

1

3

4

5

6 7

8

9

10

11

1213

14

15

18

19

20

2122

23

2425

2627

28

- (c) Dependence on alcohol and one or more other psychoactive chemicals, as the context requires.
  - (6) "Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter  $18.205\ RCW$ .
  - (7) "Commitment" means the determination by a court that a person should be detained for a period of either evaluation or treatment, or both, in an inpatient or a less restrictive setting.
- (8) "Conditional release" means a revocable modification of a commitment that may be revoked upon violation of any of its terms.
- (9) "Custody" means involuntary detention under either chapter 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of unconditional release from commitment from a facility providing involuntary care and treatment.
- 16 (10) "Department" means the department of social and health 17 services.
  - (11) "Designated chemical dependency specialist" or "specialist" means a person designated by the county alcoholism and other drug addiction program coordinator designated under RCW 70.96A.310 to perform the commitment duties described in RCW 70.96A.140 and this chapter, and qualified to do so by meeting standards adopted by the department.
  - (12) "Designated crisis responder" means a person designated by the county or regional support network to perform the duties specified in this chapter.
  - (13) "Designated mental health professional" means a mental health professional designated by the county or other authority authorized in rule to perform the duties specified in this chapter.
- 30 (14) "Detention" or "detain" means the lawful confinement of a 31 person under this chapter, or chapter 70.96A or 71.05 RCW.
- 32 (15) "Developmental disabilities professional" means a person who 33 has specialized training and three years of experience in directly 34 treating or working with individuals with developmental disabilities 35 and is a psychiatrist, psychologist, or social worker, and such other 36 developmental disabilities professionals as may be defined by rules 37 adopted by the secretary.

1 (16) "Developmental disability" means that condition defined in RCW 71A.10.020.

3

4 5

6 7

8

10

11

12

13

14

15 16

19

2021

22

2324

25

26

27

28

29

3031

32

- (17) "Discharge" means the termination of facility authority. The commitment may remain in place, be terminated, or be amended by court order.
- (18) "Evaluation and treatment facility" means any facility that can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and timely and appropriate inpatient care to persons suffering from a mental disorder, and that is certified as such by the department. A physically separate and separately operated portion of a state hospital may be designated as an evaluation and treatment facility. A facility that is part of, or operated by, the department or any federal agency does not require certification. No correctional institution or facility, or jail, may be an evaluation and treatment facility within the meaning of this chapter.
- 17 (19) "Facility" means either an evaluation and treatment facility 18 or a secure detoxification facility.
  - (20) "Gravely disabled" means a condition in which a person, as a result of a mental disorder, or as a result of the use of alcohol or other psychoactive chemicals:
  - (a) Is in danger of serious physical harm resulting from a failure to provide for his or her essential human needs of health or safety; or
  - (b) Manifests severe deterioration in routine functioning evidenced by repeated and escalating loss of cognitive or volitional control over his or her actions and is not receiving such care as is essential for his or her health or safety.
  - (21) "History of one or more violent acts" refers to the period of time ten years before the filing of a petition under this chapter, or chapter 70.96A or 71.05 RCW, excluding any time spent, but not any violent acts committed, in a mental health facility or a long-term alcoholism or drug treatment facility, or in confinement as a result of a criminal conviction.
- 34 (22) "Imminent" means the state or condition of being likely to 35 occur at any moment or near at hand, rather than distant or remote.
- 36 (23) "Intoxicated person" means a person whose mental or physical 37 functioning is substantially impaired as a result of the use of alcohol 38 or other psychoactive chemicals.

- 1 (((23))) (24) "Judicial commitment" means a commitment by a court 2 under this chapter.
- $((\frac{(24)}{(24)}))$  <u>(25)</u> "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.
  - $((\frac{25}{25}))$  (26) "Likelihood of serious harm" means:
  - (a) A substantial risk that:

6

7

11

1213

14

15 16

17

18

22

2324

25

2627

28

29

30

3132

33

- 8 (i) Physical harm will be inflicted by a person upon his or her own 9 person, as evidenced by threats or attempts to commit suicide or 10 inflict physical harm on oneself;
  - (ii) Physical harm will be inflicted by a person upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or
  - (iii) Physical harm will be inflicted by a person upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others; or
  - (b) The person has threatened the physical safety of another and has a history of one or more violent acts.
- 19  $((\frac{(26)}{)})$  <u>(27)</u> "Mental disorder" means any organic, mental, or 20 emotional impairment that has substantial adverse effects on a person's 21 cognitive or volitional functions.
  - $((\frac{27}{1}))$  (28) "Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, or social worker, and such other mental health professionals as may be defined by rules adopted by the secretary under the authority of chapter 71.05 RCW.
  - $((\frac{28}{28}))$  (29) "Peace officer" means a law enforcement official of a public agency or governmental unit, and includes persons specifically given peace officer powers by any state law, local ordinance, or judicial order of appointment.
  - $((\frac{29}{29}))$  (30) "Person in charge" means a physician or chemical dependency counselor as defined in rule by the department, who is empowered by a certified treatment program with authority to make assessment, admission, continuing care, and discharge decisions on behalf of the certified program.
- $((\frac{30}{30}))$   $\underline{(31)}$  "Private agency" means any person, partnership, corporation, or association that is not a public agency, whether or not financed in whole or in part by public funds, that constitutes an evaluation and treatment facility or private institution, or hospital,

or approved treatment program, that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent.

 $((\frac{31}{1}))$   $\underline{(32)}$  "Professional person" means a mental health professional or chemical dependency professional and shall also mean a physician, registered nurse, and such others as may be defined by rules adopted by the secretary pursuant to the provisions of this chapter.

 $((\frac{32}{2}))$  (33) "Psychiatrist" means a person having a license as a physician and surgeon in this state who has in addition completed three years of graduate training in psychiatry in a program approved by the American medical association or the American osteopathic association and is certified or eligible to be certified by the American board of psychiatry and neurology.

 $((\frac{33}{3}))$  (34) "Psychologist" means a person who has been licensed as a psychologist under chapter 18.83 RCW.

 $((\frac{34}{)})$   $\underline{(35)}$  "Public agency" means any evaluation and treatment facility or institution, or hospital, or approved treatment program that is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill and/or chemically dependent, if the agency is operated directly by federal, state, county, or municipal government, or a combination of such governments.

(((35))) (36) "Registration records" means all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify persons who are receiving or who at any time have received services for mental illness.

 $((\frac{36}{36}))$  "Release" means legal termination of the commitment under chapter 70.96A or 71.05 RCW or this chapter.

(((37))) (38) "Secretary" means the secretary of the department or the secretary's designee.

(((38))) (39) "Secure detoxification facility" means a facility operated by either a public or private agency or by the program of an agency that serves the purpose of providing evaluation and assessment, and acute and/or subacute detoxification services for intoxicated persons and includes security measures sufficient to protect the patients, staff, and community.

(((39))) (40) "Social worker" means a person with a master's or further advanced degree from an accredited school of social work or a degree deemed equivalent under rules adopted by the secretary.

1 2

3

4

6 7

8

10

11

17

18

19 20

21

2223

24

2526

27

28

29

3031

32

33

34

3536

- ((\(\frac{40}{10}\))) (\(\frac{41}{1}\)] "Treatment records" means registration records and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staffs, and by treatment facilities. Treatment records do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.
- $((\frac{41}{1}))$   $\underline{(42)}$  "Violent act" means behavior that resulted in homicide, attempted suicide, nonfatal injuries, or substantial damage to property.
- 15 **Sec. 4.** RCW 70.96B.020 and 2005 c 504 s 203 are each amended to read as follows:
  - (1) Subject to funds appropriated for this specific purpose, the secretary, after consulting with the Washington state association of counties, shall select and contract with regional support networks or counties to provide two integrated crisis response and involuntary treatment pilot programs for adults and shall allocate resources for both integrated services and secure detoxification services in the In selecting the two regional support networks or pilot areas. counties, the secretary shall endeavor to site one in an urban and one in a rural regional support network or county; and to site them in counties other than those selected pursuant to RCW 70.96A.800, to the extent necessary to facilitate evaluation of pilot project results. Subject to funds appropriated for this specific purpose, the secretary may contract with additional regional support networks or counties to provide integrated crisis response and involuntary treatment pilot programs to adults.
  - (2) The regional support networks or counties shall implement the pilot programs by providing integrated crisis response and involuntary treatment to persons with a chemical dependency, a mental disorder, or both, consistent with this chapter. The pilot programs shall:
  - (a) Combine the crisis responder functions of a designated mental health professional under chapter 71.05 RCW and a designated chemical

dependency specialist under chapter 70.96A RCW by establishing a new designated crisis responder who is authorized to conduct investigations and detain persons up to seventy-two hours to the proper facility;

4

6 7

- (b) Provide training to the crisis responders as required by the department;
- (c) Provide sufficient staff and resources to ensure availability of an adequate number of crisis responders twenty-four hours a day, seven days a week;
- 9 (d) Provide the administrative and court-related staff, resources, 10 and processes necessary to facilitate the legal requirements of the 11 initial detention and the commitment hearings for persons with a 12 chemical dependency;
- (e) Participate in the evaluation and report to assess the outcomes of the pilot programs including providing data and information as requested;
- (f) Provide the other services necessary to the implementation of the pilot programs, consistent with this chapter as determined by the secretary in contract; and
- 19 (g) Collaborate with the department of corrections where persons 20 detained or committed are also subject to supervision by the department 21 of corrections.
- 22 (3) The pilot programs established by this section shall begin 23 providing services by March 1, 2006.
- 24 Sec. 5. RCW 70.96B.050 and 2007 c 120 s 1 are each amended to read 25 as follows:
- 26 When a designated crisis responder receives information alleging that a person, as a result of a mental disorder, chemical 27 dependency disorder, or both, presents a likelihood of serious harm or 28 is gravely disabled, the designated crisis responder may, after 29 30 investigation and evaluation of the specific facts alleged and of the 31 reliability and credibility of any person providing information to initiate detention, if satisfied that the allegations are true and that 32 the person will not voluntarily seek appropriate treatment, file a 33 petition for initial detention. Before filing the petition, the 34 designated crisis responder must personally interview the person, 35 36 unless the person refuses an interview, and determine whether the

person will voluntarily receive appropriate evaluation and treatment at either an evaluation and treatment facility, a detoxification facility, or other certified chemical dependency provider.

1 2

3

4

5

6 7

8

10

11

1213

14

15 16

17

18

19

2021

22

2324

25

2627

28

29

3031

32

33

34

35

3637

- (2)(a) An order to detain to an evaluation and treatment facility, a detoxification facility, or other certified chemical dependency provider for not more than a seventy-two hour evaluation and treatment period may be issued by a judge upon request of a designated crisis responder: (i) Whenever it appears to the satisfaction of a judge of the superior court, district court, or other court permitted by court rule, that there is probable cause to support the petition, and (ii) that the person has refused or failed to accept appropriate evaluation and treatment voluntarily.
- (b) The petition for initial detention, signed under penalty of perjury or sworn telephonic testimony, may be considered by the court in determining whether there are sufficient grounds for issuing the order.
- (c) The order shall designate retained counsel or, if counsel is appointed from a list provided by the court, the name, business address, and telephone number of the attorney appointed to represent the person.
- (3) The designated crisis responder shall then serve or cause to be served on such person, his or her guardian, and conservator, if any, a copy of the order to appear, together with a notice of rights and a petition for initial detention. After service on the person, the designated crisis responder shall file the return of service in court and provide copies of all papers in the court file to the evaluation and treatment facility or secure detoxification facility and the designated attorney. The designated crisis responder shall notify the court and the prosecuting attorney that a probable cause hearing will be held within seventy-two hours of the date and time of outpatient evaluation or admission to the evaluation and treatment facility, secure detoxification facility, or other certified chemical dependency provider. If requested by the detained person or his or her attorney, the hearing may be postponed for a period not to exceed forty-eight hours. The hearing may be continued subject to the petitioner's showing of good cause for a period not to exceed twenty-four hours. The person may be accompanied by one or more of his or her relatives, friends, an attorney, a personal physician, or other professional or

- religious advisor to the place of evaluation. An attorney accompanying the person to the place of evaluation shall be permitted to be present during the admission evaluation. Any other person accompanying the person may be present during the admission evaluation. The facility may exclude the person if his or her presence would present a safety risk, delay the proceedings, or otherwise interfere with the evaluation.
- 8 (4) The designated crisis responder may notify a peace officer to take the person or cause the person to be taken into custody and placed 9 in an evaluation and treatment facility, a secure detoxification 10 facility, or other certified chemical dependency provider. At the time 11 the person is taken into custody there shall commence to be served on 12 13 the person, his or her guardian, and conservator, if any, a copy of the original order together with a notice of detention, a notice of rights, 14 15 and a petition for initial detention.
- 16 **Sec. 6.** RCW 70.96B.100 and 2005 c 504 s 211 are each amended to read as follows:

18

19 20

21

2223

2425

26

27

2829

- ((If a person is detained for additional treatment beyond fourteen days under RCW 70.96B.090, the professional staff of the agency or facility may petition for additional treatment under RCW 70.96A.140.))
  (1) A person detained for fourteen days of involuntary chemical dependency treatment under RCW 70.96B.090 or subsection (6) of this section shall be released from involuntary treatment at the expiration of the period of commitment unless the professional staff of the agency or facility files a petition for an additional period of involuntary treatment under RCW 70.96A.140, or files a petition for sixty days less restrictive treatment under this section naming the detained person as a respondent. Costs associated with the obtainment or revocation of an order for less restrictive treatment and subsequent involuntary commitment shall be provided for within current funding.
- (2) A petition for less restrictive treatment must be filed at least three days before expiration of the fourteen-day period of intensive treatment, and comport with the rules contained in RCW 70.96B.090(2). The petition shall state facts that support the finding that the respondent, as a result of a chemical dependency, presents a likelihood of serious harm or is gravely disabled, and that continued treatment pursuant to a less restrictive order is in the best interest

of the respondent or others. At the time of filing such a petition, the clerk shall set a time for the respondent to come before the court on the next judicial day after the day of filing unless such appearance is waived by the respondent's attorney.

2.2

- (3) At the time set for appearance the respondent must be brought before the court, unless such appearance has been waived and the court shall advise the respondent of his or her right to be represented by an attorney. If the respondent is not represented by an attorney, or is indigent or is unwilling to retain an attorney, the court shall immediately appoint an attorney to represent the respondent. The court shall, if requested, appoint a reasonably available licensed physician, psychologist, or psychiatrist, designated by the respondent to examine and testify on behalf of the respondent.
- (4) The court shall conduct a hearing on the petition for sixty days less restrictive treatment on or before the last day of the confinement period. The burden of proof shall be by clear, cogent, and convincing evidence and shall be upon the petitioner. The respondent shall be present at such proceeding. The rules of evidence shall apply, and the respondent shall have the right to present evidence on his or her behalf, to cross-examine witnesses who testify against him or her, to remain silent, and to view and copy all petitions and reports in the court file. The physician-patient privilege or the psychologist-client privilege shall be deemed waived in accordance with the provisions under RCW 71.05.360(9). Involuntary treatment shall continue while a petition for less restrictive treatment is pending under this section.
- (5) The court may impose a sixty-day less restrictive order if the evidence shows that the respondent, as a result of a chemical dependency, presents a likelihood of serious harm or is gravely disabled, and that continued treatment pursuant to a less restrictive order is in the best interest of the respondent or others. The less restrictive order may impose treatment conditions and other conditions which are in the best interest of the respondent and others. A copy of the less restrictive order shall be given to the respondent, the designated crisis responder, and any program designated to provide less restrictive treatment. A program designated to provide less restrictive treatment and willing to supervise the conditions of the less restrictive order may modify the conditions for continued release

when the modification is in the best interests of the respondent, but must notify the designated crisis responder and the court of such modification.

4 (6) If a program approved by the court and willing to supervise the conditions of the less restrictive order or the designated crisis 5 responder determines that the respondent is failing to adhere to the 6 terms of the less restrictive order or that substantial deterioration 7 in the respondent's functioning has occurred, then the designated 8 crisis responder shall notify the court of original commitment and 9 request a hearing to be held no less than two and no more than seven 10 days after the date of the request to determine whether or not the 11 respondent should be returned to more restrictive care. The designated 12 13 crisis responder may cause the respondent to be immediately taken into custody of the secure detoxification facility pending the hearing if 14 the alleged noncompliance causes the respondent to present a likelihood 15 of serious harm. The designated crisis responder shall file a petition 16 with the court stating the facts substantiating the need for the 17 hearing along with the treatment recommendations. The respondent shall 18 have the same rights with respect to notice, hearing, and counsel as 19 for the original involuntary treatment proceedings. The issues to be 20 21 determined at the hearing are whether the conditionally released respondent did or did not adhere to the terms and conditions of his or 22 her release to less restrictive care or that substantial deterioration 23 24 of the respondent's functioning has occurred and whether the conditions of release should be modified or the respondent should be returned to 25 a more restrictive setting. The hearing may be waived by the 26 27 respondent and his or her counsel and his or her quardian or conservator, if any, but may not be waived unless all such persons 28 agree to the waiver. If the court finds in favor of the petitioner, or 29 the respondent waives a hearing, the court may order the respondent to 30 be committed to a secure detoxification facility for fourteen days of 31 involuntary chemical dependency treatment, or may order the respondent 32 to be returned to less restrictive treatment on the same or modified 33 conditions. 34

35 <u>NEW SECTION.</u> **Sec. 7.** RCW 70.96B.900 (Expiration date--2005 c 504 §§ 202-216) and 2005 c 504 s 219 are each repealed.

Sec. 8. 2007 c 120 s 4 (uncodified) is repealed.

2

1

NEW SECTION. Sec. 9. If specific funding for the purposes of this 3 act, referencing this act by bill or chapter number, is not provided by 4 June 30, 2008, in the omnibus appropriations act, this act is null and 5 void." 6

7 Correct the title.

--- END ---